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60,246-160  
10,408

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

7/Response  
J. Steptoe  
7-9-03

In re application: Kolk, et al.

Serial No.: 10,067,103

Filed: 02/04/2002

Group Art Unit: 2863

Examiner: Shah, Kamini S.

For: TEMPERATURE CONTROL BALANCING DESIRED  
COMFORT WITH ENERGY COST SAVINGS

RESPONSE

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This paper is responsive to the Office Action mailed on March 31, 2003.

Applicant thanks the Examiner for the remarks and analysis contained in the Office Action. Applicant is especially grateful for the indication of allowable subject matter. For the reasons discussed below, Applicant respectfully submits that all claims are allowable.

Applicant respectfully traverses the rejection under 35 U.S.C. §102(e) based upon the *Gruber, et al.* patent. The *Gruber, et al.* patent does not disclose the claimed invention in any form. The Examiner's interpretation of a desired user temperature as a performance index is not proper because the claims clearly define the performance index as something different than a user temperature. The claims are directed to a method and system that utilizes a performance index value that is indicative of a desired balance between maintaining a set point temperature chosen by a user and energy cost savings.

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That is nowhere contained or suggested with the *Gruber, et al.* patent. Instead, the *Gruber, et al.* patent is limited to controlling control values such as flow temperature over a selected time horizon "such that the inside temperature  $T_{int}$  in the room/building 3 satisfies the specifications of the user." (Column 2, lines 53-55). There is no discussion anywhere within *Gruber, et al.* of adjusting the system sensitivity to a difference between the set point temperature and the actual temperature based upon a performance index value. Instead, as quoted above, *Gruber, et al.* attempt to only satisfy the temperature specifications of the user (i.e., to have the current temperature match a set point temperature).

This case is in condition for allowance. If the Examiner believes that a telephone conference will facilitate moving this case forward to being issued, Applicant's representative will be happy to discuss any issues regarding this application and can be contacted at the telephone number indicated below.

Respectfully submitted,

CARLSON, GASKEY & OLDS

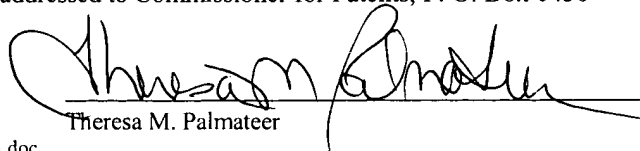
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Dated: June 26, 2003

**CERTIFICATE OF MAILING**

I hereby certify that the enclosed Response is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to Commissioner for Patents, P. O. Box 1450 Alexandria, VA 22313-1450 on June 26, 2003.

  
Theresa M. Palmateer

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